

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 29, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Tuesday, January 29, 1985, at 8:00 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 438: Rep. Jan Brown, chief sponsor for the bill, informed the committee that 12 related bills would be heard before the committee on January 29 and 30. They are implementation bills for the federal Child Support Enforcement Amendments of 1984. A copy of her introduction was marked as Exhibit A and is attached hereto. Rep. Brown said that HB 438 provides for the offsetting of child support debts against state income tax refunds. A copy of her testimony pertinent to this particular bill was marked Exhibit B and is attached hereto.

Ann Brodsky testified in support of House Bills 438 through 444 on behalf of the Women's Lobbyist Fund. A copy of her testimony was marked as Exhibit C and is attached hereto.

Dennis Shober, representing the Child Support Enforcement Bureau of the Department of Revenue, testified in support of this bill. He submitted a copy of a statement entitled: "Poverty: The Effects of Nonsupport." The copy was marked as Exhibit D.

John McRae, staff attorney for the Department of Revenue, also appeared on behalf of the child support bills. He told the committee that as a staff attorney, he is familiar with the reality of nonsupport. He submitted a fact sheet dealing with the Child Support Enforcement Amendments of 1984, which was marked as Exhibit E. He reviewed the highlights of the new law which strengthens the nation's child support enforcement system.

There being no further proponents nor opponents, Rep. Brown closed. Chairman Hannah opened the floor to questions.

Rep. Hannah asked if all these child support bills were mandated by federal law, or are there some bills

that the department simply would like to have? Mr. McRae stated that three of the bills proposed are ones that the department would like to have enacted, but are not mandated by federal law.

The Department of Revenue would like HB 447 adopted because it goes with the concept of what workers' compensation benefits are. It is basically a social insurance policy for a person who is a victim of an industrial accident to take care of his needs and his family needs until recovery.

HB 448 is an act to create a presumption of parentage when blood test results indicate a high probability of paternity. The reason the department wants this bill to pass is because approximately 40% of the entire AFDC caseload involves disputed paternity cases. This is a very time-consuming and costly procedure to determine paternity.

HB 456 is an act to provide for support of children receiving public assistance during the pendency of a divorce, legal separation, child support, annulment or modification of child support proceedings. This bill will permit the department to examine the case, and if necessary, assist the court in establishing the child support obligation.

In response to some general questions, Mr. McRae stated that the bulk of their caseload is done through the administrative process. Rep. Addy also asked Mr. McRae if the respondent in some of these actions would have the benefit of an attorney. Mr. McRae stated that the respondent could certainly have an attorney, but one would not be provided by the state. He continued by saying that because these are civil cases, respondents are not entitled to an attorney free of charge. He said that the greatest advantage of these administrative hearings is that they are basically set up by laymen.

Rep. Hannah directed questions to Mr. McRae concerning the appeals process. Mr. McRae said that there is a record kept of these proceedings.

Rep. Montayne wanted to know if there was any provision in this legislation for day care fees. Mr. McRae said that day care needed to be included in the total sum awarded for child support.

There being no further discussion, hearing closed on HB 438.

CONSIDERATION OF HOUSE BILL 439: Rep. Jan Brown, chief sponsor of this bill, testified before the committee. A copy of her testimony was marked as Exhibit G and is attached hereto.

Testifying on behalf of this bill was John McRae, staff attorney for the Department of Revenue. Mr. McRae pointed out some of the highlights of the bill. The purpose of this bill is to make available to consumer credit reporting agencies information concerning an individual's delinquent support obligation. (The intent statement is marked as Exhibit H.)

There being no further proponents no opponents, Rep. Brown closed. The committee was given opportunity to question the witnesses.

CONSIDERATION OF HOUSE BILL 440: Rep. Brown, chief sponsor of the bill, testified in support of it. A copy of her testimony is attached hereto as Exhibit I. She stated that the bill basically would permit the Dept. of Revenue to enforce maintenance awards to custodial parents of children whose support is being enforced by the department.

John McRae, again, testified in support of this bill. He stated that HB 440 would allow the department to enforce maintenance with their administrative process. It is just an amendment of the statutory definition of support to include alimony or maintenance in some cases.

There being no further proponents or opponents, Rep. Brown closed. The floor was open to questions.

In response to a question from Rep. Keyser, Mr. McRae stated that many of the rules will, in fact, increase their workload; however, Mr. McRae further believes that some of these rules will also decrease the workload.

Mr. McRae stated that it has been their experience that there are not many court orders that include maintenance. He said that maintenance is hard to get and is ordinarily given only temporarily.

In response to a question from Rep. Rapp-Svrcek, Mr. McRae stated that they don't have statistics pertaining to the employment status of the parents they file nonsupport cases against.

Rep. Montayne asked a few questions pertaining to common law marriages and how this legislation would affect some of these questions.

In response to a question asked by Rep. Hannah, Mr. McRae stated that HB 440 is mandated by the new federal law.

There being no further discussion, hearing closed on HB 440.

CONSIDERATION OF HOUSE BILL 441: Rep. Jan Brown, chief sponsor of the bill, testified before the committee. A copy of her testimony was marked as Exhibit J and is attached hereto.

John McRae testified in support of this bill. He said that this bill also is derived from the new federal law.

There being no further proponents nor opponents, Rep. Brown closed, and the floor was opened to questions from committee.

Rep. Krueger asked if most of these administrative decrees are established without the parent ever participating in the proceedings. Mr. McRae stated that a good percentage of them are granted by default, but he doesn't think that more than 50% of them are, as suggested by Rep. Krueger.

Mr. Bill Harrington, bureau chief for the Dept. of Revenue, submitted amendments to HB 441, a copy of which is attached hereto as Exhibit K. He said that the amendments address the warrant for restraint and the hearing requirements under the department's administrative child support collection procedure.

Mr. McRae stated that their administrative process gives the individual more due process than that afforded under an ordinary decree or judgment.

In response to a question, Mr. McRae stated that a warrant for restraint is a device that has long been known in the law and has often been applied in the area of tax. It imposes a lien on the property and therefore prevents conveyance of the property by the debtor.

Rep. Addy wanted to know how third parties have notice of this warrant. Mr. McRae stated that they have a

process that is first filed in district court. A notice goes to third parties. The warrant is enforceable by the department against a third party who has been notified of its existence.

Rolling further questions from the committee, hearing closed on HB 441.

CONSIDERATION OF HOUSE BILL 442: Rep. Jan Brown, chief sponsor for this bill, testified in its support. She said that HB 442 provides that a paternity action may be brought until the child becomes 21 years of age. A copy of her testimony was marked as Exhibit L and is attached hereto.

John McRae testified in support of this bill. He told the committee that approximately 40% of their caseload is paternity cases. A good percentage of those cannot be completed because the statute of limitations has expired. He said that a mother is generally a low income person, who does not have the money to pay the cost of going through the judicial process on her own. He said that is one of the reasons for doing away with the statute of limitations. The Montana Supreme Court has partially done this, but it should still be clarified in regard to the role of the Dept. of Revenue, said McRae.

There being no further proponents nor any opponents, Rep. Brown closed, and the floor was opened to questions.

In response to a question by Rep. Hannah, Mr. McRae stated that if paternity is never established, there is no obligation to support.

Rep. Hannah said that under HB 442, on page 2 of the bill, the existing language says that the action may not be brought later than three years after the birth of the child. So, if two years, eleven months following the birth of the child, the mother brings an action and the court upholds that action through the blood test, the total liability that father could have would be three years. Mr. McRae said that was correct just up to the time paternity is established. Rep. Hannah directed another question pertaining to this, and asked Mr. McRae if he didn't think this is a substantial increase in the potential liability to go from three years to 21 years. Mr. McRae stated that it was a distinct possibility.

There were further questions directed to the age portion of the bill.

Rep. Krueger asked if Mr. McRae would be opposed to some provision that put some limitation in relation to the State of Montana and how long they could bring that action regardless of the age of the child.

Mr. McRae stated that under the new federal law, the statute of limitations must not be any earlier than when the child reaches the age of 18.

Rep. Krueger asked if Mr. McRae thought the legislature would have problems in light of the federal mandate if it put a limitation in relation to the state. Mr. McRae said he thought that would create a problem.

There being no further questions, hearing closed on HB 442.

CONSIDERATION OF HOUSE BILL 443: Rep. Jan Brown, chief sponsor of this bill, appeared and offered testimony. A copy of her testimony is attached and marked Exhibit M. She said that this bill would require, in child support cases being enforced by the Department of Revenue, the withholding of the obligor's income whenever an arrearage occurs that is equal to or in excess of the amount of support payable for one month.

John McRae also testified in support of this bill. He told the committee that this bill is lengthy and detailed. The intent of the bill and of the Child Support Enforcement Amendments of 1984, on which it is based, is to ensure that the support of children takes the highest priority in the allocation of a responsible parent's income withholding procedures whenever a delinquency occurs equal to at least one month's support payment. Mr. McRae pointed out some of the other features of the bill. He pointed out that there are many benefits directed toward the obligor.

There being no further proponents nor opponents, Rep. Brown closed and the floor was opened to questions from committee.

In response to a question from Rep. Keyser on the venue provision in the bill, Mr. McRae said that if a case is contested, the hearing officer makes the ultimate decision as to where the hearing will take place.

Rep. Keyser further asked if in the rest of the statute there is any language from the department that was not

required by the federal statute that increases or broadens the department's authority. Mr. McRae said that he had previously pointed out most of the portions of the bill that are not required by federal law.

In response to a question from Rep. Rapp-Svrcek, Mr. McRae stated that support payments are made through the clerk of court, or their department, or directly to the obligee. In response to another question, Mr. Shober stated that with regard to actual administrative costs, they do not have figures on the increased cost to the department that will be caused by this bill.

Rep. Rapp-Svrcek wanted to know the delay involved when payment comes through the department -- what kind of delay does the obligee have to deal with. Mr. Shober said it varies, but sometimes it can be substantial -- up to 4 to 5 weeks.

In response to a question by Rep. Gould, Mr. McRae informed the committee that medical bills and child support are different from each other, and the department does not collect medical costs.

Rep. Montayne feels this bill would place an unfair burden upon corporations. He feels that employees of large corporations are not going to tolerate this added burden. McRae said that he has received very little opposition to this bill from these large corporations.

Following further questions from the committee, the hearing on HB 443 was closed.

Mr. McRae did point out that the Governor's Commission which has just been appointed will study some of the problems that have been discussed here, such as visitation rights and other abuses that occur in these cases.

One problem seen by Rep. Krueger is the period of time that the parent must wait to receive a child support payment. Mr. Harrington said that three to five weeks is not the normal time it takes for an individual to receive these payments as referred to in earlier testimony.

In response to another question, Mr. McRae said that each of these bills can stand on its own.

EXECUTIVE SESSION

ACTION ON HB 439: Rep. O'Hara moved that HB 439 DO PASS. The motion was seconded by Rep. Hammond. Rep. Addy pointed

out that there is a statement of intent attached to the bill and moved that the statement be adopted. The motion was seconded by Rep. Gould and carried unanimously. Question was called on the bill itself, and all voted in favor of its passage except Rep. Brown.

ACTION ON HB 441: Rep. Hammond moved that HB 441 DO PASS. The motion was seconded by Rep. Addy and discussion followed. Rep. Mercer moved to adopt the amendment as proposed by the department. He agrees with the testimony offered earlier in support of this particular amendment. The motion was seconded by Rep. O'Hara and discussion followed.

Rep. Krueger spoke against this amendment because he feels it is not totally needed. Also speaking against the amendment was Rep. Brown, who feels it goes beyond the scope of the bill.

Brenda Desmond, staff researcher, commented at this point on the amendment. She said that it does deviate from the narrow original intent of the bill; however, it does not deviate from the broad intent of the bill, that is, enforcement of child support.

The question was called and a roll call vote taken. The motion carried 10-8.

Rep. Hammond further moved that HB 441 DO PASS AS AMENDED. The motion was seconded by Rep. Miles and carried with Reps. Brown and Montayne dissenting.

ACTION ON HB 438: Rep. O'Hara moved that HB 438 DO PASS. The motion was seconded by Rep. Montayne and carried unanimously.

ACTION ON HB 442: Rep. Hammond moved that HB 442 DO PASS. The motion was seconded by Rep. Addy. However, Rep. Addy moved to amend this bill on page 2, line 3, by striking the number "3" and inserting "18". His amendment would also include the reinserting of "the birth of". The amendment would also delete line 4 in its entirety. Mr. McRae stated that by cutting the age off at 18 years, any remedy a child has to pursue this matter by himself has been cut off.

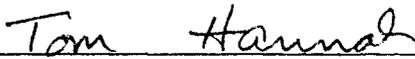
Rep. Mercer spoke against the motion and made a substitute motion that we change on line 3 the number "3" to "2" years and leave everything else the same as initially proposed. Rep. Mercer said the reason for the amendment is that a child can't do anything until

he reaches the age of majority, and at that time, he needs some time to act. Rep. Mercer stated that he wanted the title to reflect this change also. The motion was seconded by Rep. O'Hara and discussed.

Rep. Addy further moved a substitute motion to make it six months after the child reaches the age of majority.

Because of the time factor, it was agreed by the members of the committee to postpone action on this bill until the next meeting.

ADJOURNMENT: There being no further business before the committee, Chairman Hannah adjourned the meeting at 11:30 a.m.



REP. TOM HANNAH, Chairman

Mr. Chairman and Members of the Committee: For the record, I am Jan Brown, H.D. 46.

The 12 bills which you have before your committee today and tomorrow are the implementation bills for the federal Child Support Enforcement Amendments of 1984 (Public Law 98-378). Before presenting the bills, I would like to give you a brief background of child support enforcement, and I also have John McRae and Bill Harrington from the Child Suppt. Enf. Bureau to give you further information and respond to your questions following each bill.

Federal law requires that each state establish a Child Suppt. Enf. program. It is commonly referred to as the "IV-D Agency" after Title IV-D of the Social Security Act. Each state program receives 70% of its funding from the federal gvt. The IV-D agency is responsible for locating absent parents, establishing paternity, establishing child support obligations, and collecting and monitoring child support payments. The Montana IV-D Agency is the Child Support Enforcement Program, located within the Legal & Enforcement Division of the Dept. of Revenue.

Every year over 1 million American marriages end in divorce. 1 out of every American children will live in a single-parent home at some point during childhood. 95% of these will live with their mothers. Fewer than 10% of absent fathers pay court-ordered child support in full, voluntarily, after the first year.

Nationally, total child support obligations equal approximately \$9.9 billion a year; receipts total only \$6.6 billion. Of the more than 4 million women legally owed child support, 53% receive only partial payment and nearly 1/3 receive no payment at all. Non-receipt of child support is a major cause of poverty among women. When child support is not paid and a family falls below the poverty level, taxpayers become responsible for child support. The IV-D program collected \$2.03 billion in FY 1983, and thousands of families were able to leave the welfare roles.

The 1984 federal legislation is directed toward insuring that all parents with an obligation to pay child support live up to that obligation. The Act provides the enforcement tools necessary to make the payment of child support an automatic function.

If you would like additional background information or financial figures, the staff resource people will respond to your questions, now or after each bill is presented.

EXHIBIT B
House Bill 438
House Judiciary Committee
1/29/85

Mr. Chairman and Members of the Committee:

For the record, I am Jan Brown, House District 46, Helena.

House Bill 438 provides for the offsetting of child support debts against state income tax refunds. Under present Montana law, when welfare is paid out, a debt due to the state is created. It is collectable and has been collected under existing statutory language.

However, the State is unable to use the tax offset statutes to collect in non-welfare cases being worked by the Child Support Enforcement Program. The new federal legislation requires the states to have the ability to use tax offsets in both welfare and non-welfare cases which are being enforced by the State. House Bill 438 would amend Montana law to offset against tax refunds this additional class of cases.

I have other proponents and Bill Harrington is here to respond to questions.

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917



January 29, 1985

TESTIMONY IN SUUPPORT OF HBs 438 - 444

Mr. Chairman and members of the House Judiciary Committee:

My name is Anne Brodsky and I am here today on behalf of the Women's Lobbyist Fund (WLF) to speak in support of House Bills 438-444. I am offering testimony to broadly endorse all of these bills as they are, as a package, a positive step in mitigating a big problem: the non-payment of child support orders (perhaps better said, child non-support). For many reasons, the problem of non-payment of child support orders is one which most often falls on women. This testimony addresses the problem in a general way.

The 1980 U.S. Census reported that less than one half of those known to have been owed child support in 1978 were actually receiving the full amount (averaging \$1800-\$2300 per year for 2 children); 23% received partial payment; and 28% received no payment at all. Here in Montana, the Department of Revenue now has a caseload of over 36,000 for child support enforcement services.

Rather than going away, the problem is increasing.. It was predicted in an article by the National Conference of State Legislatures in July, 1983, that by the 1990s, less than 50% of children will spend their entire childhood with both parents and over 95% of the children with single parents will live with their mothers.

The problem of collecting child support obligations -- which becomes a societal problem, both economically and socially -- is based on many factors. I quote to you from an article entitled "Child Support? Forget It!" (Working Mother, Feb. 1983), in which one woman recounted her story as follows: "I've been to court so many times in the last five years that I've lost count. Each time I go back I lose at least half a day's work and usually a full day....Right now Steve hasn't paid me anything in two months... but I don't want to go to court again. I get so uptight each time that I can't sleep and my stomach's in knots....I wonder, should I just forget about child support and try to make it on my own? But as Luke grows older, my expenses grow too. You can't imagine the anxiety." This is the account of one woman. I have no doubt that her voice speaks for the many who are faced with the problem of enforcement of child support obligations.

HBs 438 - 444 are an encouraging step in addressing part of this very big problem. These bills take big steps in strengthening the state's mechanisms for enforcing these obligations.

For these reasons, the WLF urges you to pass HBs 438 - 444.



**National
Conference
of State
Legislatures**

Headquarters
Office
(303) 292-6600

1125
Seventeenth
Street
Suite 1500
Denver,
Colorado
80202

President
William F. Passannante
Speaker Pro Tem
New York State Assembly

Executive Director
Earl S. Mackey

Information Release #9

July 1983

POVERTY: THE EFFECTS OF NONSUPPORT

If current trends continue, mothers and their children will compose almost 100 percent of the poverty population by the year 2000.¹ By 1990, only half of all American children will spend their entire childhood with both natural parents.² Over 95 percent of all children in single parent households will live with their mothers.³ These mothers are quickly beginning to swell the ranks of the povertied class. Diana Pierce in 1978 coined the phrase "feminization of poverty" to describe this phenomenon.

The above statistics have grim implications for state legislators who must deal with the aftermath of this new class of poor.* The regulation of state child support agencies, AFDC (Aid to Families with Dependent Children) payments, and proposed bills regarding child support enforcement are all types of legislation which eventually address the root of the "feminization of poverty"--the lack of support by an absent parent.

The descent into poverty by mothers and their children is clouded in myth. This information release seeks to explore the myths surrounding poor women and their children. Because a mother's standard of living will, for the most part, determine a child's standard of living, the links between a family's penury and nonsupport will be explored.

Throughout the '70s the myth of superwoman/mother invaded media consciousness. Women could do it all and still provide good homes for the 2.5 children. Of course, the father was there to help the mother with the housework, as well as providing financial and emotional support. However, the '70s myth of superwoman/mother faded quickly as the economic status of women did not significantly change. Women continue to earn only 59 cents for every dollar earned by men.⁵ And, two-thirds of women who work full-time earn less than \$10,000 a year.⁶ The '70s family underwent major changes, causing women who sought their security in the homefronts to be severely shaken. The status for women/mothers is reflected in statistics such as:

- Of white female headed families in 1978, 53.4 percent lived in poverty.

* For 1982 the poverty level for a four person family was \$9,860.00

- Of black female headed families in 1978, 69.5 percent lived in poverty.
- Between 1978 and 1980, the number of female headed households falling below the poverty line rose 150,000 per year--with all indications showing that this number will grow.⁷

Current economic indicators suggest that the number of single mothers who are poor will continue to increase. This will place special demands on public assistance transfers and public officials who will determine those transfers. In attempting to understand this new underclass of women, we might take a careful look at the myths which surround poor women.

Myth #1--Changes in the "Typical" Family Structure

It is no surprise to anyone that the American family has undergone major alterations in the last decade. A station wagon, house in the suburbs, two kids and a stay-at-home mother and working father may still equate to the American dream. Yet only 13 percent of American families fall into that classification.⁸ The largest growing family unit is a single-parent household. The American family looks like this:

- 50 percent of the nation's mothers work outside the home.
- 43 percent of all married women who work have children under the age of six.
- 20 percent of all children under 18 live in one-parent households (up from 8 percent in 1970).
- 18 million children live in homes of divorced or separated parents.⁹

Where then is the "typical" American family? The fastest growing family type is the single-parent family. In the 1950s, half of all female headed households were headed by widows.¹⁰ Between 1970 and 1980 the percentage of female headed households increased 82 percent for all families and 92 percent in black families.¹¹ Today widows head less than one-third of these households.¹² Most people are aware that one out of every two marriages end in divorce.¹³ What many are unaware of is that poor women have increasingly become the head of households.

The number of families with male heads of household (both husband/wife units and single males) fell from 3.2 to 2.6 million.¹⁴ However, the number headed by poor women with minor children increased from 1.8 to 2.7 million.¹⁵ Today more than one-half of the total number of poor families are headed by single mothers.¹⁶ Female-headed families have a poverty rate six times that of male-headed families.¹⁷ The number of single parents who were never married has soared 109 percent.¹⁸ Most of these women remain poor all of their lives.

Myth #2--The Economics of Divorce

Lenore Weitzman's careful study of new directions in family economics explores the downward mobility for women after divorce.

Up to the time of this study, many believed that a man strapped with maintenance or support payments fared poorly after divorce. This 1981 study produced the following disturbing figures:

- After one year of divorce, a women's standard of living decreases 73 percent.
- After one year of divorce, a man's standard of living increases 42 percent.

For median income families (\$20,000-29,000), the loss to divorced women is as follows:

- Women have a post-divorce income of less than one-half of what they had in marriage.
- Men live at 97 percent of their former standard.¹⁹

Also of note is the fact that only 14 percent of all women receive court ordered maintenance.²⁰ In less than 50 percent of divorces was there any marital property to divide.²¹ Even seven years after a divorce, women still experience a decline of 29 percent in terms of income needed to provide basic need. Men, on the other hand, experienced a 17 percent gain in terms of economic position.²²

In light of the fact that currently women have custody of the children in over 90 percent of all cases, the outlook for this newest family unit appears bleak.²³ Judith Cassetty, in her book The Parental Child-Support Obligation, suggests that if a child's financial stability is not threatened, then the psychological impact of divorce can be alleviated. However, economic indications, such as above, seemingly imply that there are not enough support or maintenance dollars ordered in divorced families to maintain the former standard of living.²³

One way to financially stabilize a single parent household would be the consistent receipt of child support payments. As Nancy Polikoff suggests in her article on child custody determinations, "The overall failure of child support enforcement has resulted in custodial mothers carrying virtually the sole economic responsibility for their children."²⁴

Myth #3--Child Support or Public Assistance is the Major Source of Income for Single Mothers

Court ordered child support is awarded in only 59.1 percent of all divorce cases where children are involved.²⁵

Actual income transfers into a single-parent household occur in this order:

1. Custodial parent's income;
2. Public assistance transfers;
3. Non-custodial parent's support.²⁶

Even after a divorced mother is awarded support payments, current statistics reveal that she is not likely to receive them. Recent studies estimate that 28 percent of all families never receive any support payments,²⁷ and another 23 percent receive partial payment²⁸--which can range from one support payment up to fulfilling 90 percent of the support obligation. Simple addition tells us that means less than 50 percent of 3.4 million women due child support received the full amount due.²⁹

Of significance is the fact that the full amount of support averages \$1,800 to \$2,300 per year for two children.³⁰ David Chambers further provides that:

In the United States in 1975, of five million mothers living with minor children and divorced, separated, remarried or never married, only about one-fourth received child support payments of any kind during the year and, of those who received anything, fewer than half received thirty dollars or more a week.³¹

The above figures are generally regarded as too low by many state officials responsible for child support collections, because these figures do not reflect the women who give up trying to collect. Nor do they reflect those women who have resorted to using private collectors (i.e. attorneys or collection agencies).³²

Recently many people have become increasingly concerned that men's rights in regard to custody and support have not been equitable. Custody is granted to mothers in over 90 percent of all uncontested divorce cases.³³ However, a California study indicates that in contested custody cases, men are awarded custody 65 percent of the time.³⁴ Increasingly, the first time fathers petition the court for custody is often after the issue of support has been raised. Joanne Schulman from the National Center on Women and Family Law has voiced concern that mothers may be agreeing to lower support awards in lieu of a long custody battle. Ms. Schulman worries that "Children suffer either way--by an unworkable joint custody arrangement or by the custodial parent's 'bartering away' of financial resources necessary for the child's support."³⁵

Without child support or with very low support orders, a woman may have to turn to public assistance to maintain her family.

Myth #4--AFDC is the Remedy to the Feminization of Poverty

This myth is wrought with cultural stereotypes. The myth is that women refuse to work, drive Cadillacs and have ten children to increase their grant amount. The reality is that the average mother receiving assistance:

- has two children (over 42 percent of AFDC families have only one child).³⁶
- receives assistance for 18 months.

- waits 18 months before seeking assistance.
- is working in 30 percent of these cases.³⁷

Further, over one-half of all mothers receiving AFDC payments have at least one child under the age of six.³⁸ Society usually encourages mothers with young children to work inside the home in order to provide a young child's nurturance and sustenance.

In 1933, Congress passed the Social Security Act, which included insurance for dependents and survivors (commonly known as aid to dependent children--AFDC). Originally this program was meant to aid widows and orphans. Today, however, AFDC families are comprised of 3 million women and 7.2 million children who receive no outside support.³⁹ Nationally, the average AFDC payment is \$256 a month for a family of about 4 members. Due to recent reductions in grant amounts in some states, that monetary grant averages less than \$100 a month.⁴⁰ These figures suggest that AFDC payments do not even come close to the needs of the poor and near poor. Further, the Children's Defense Fund reports that in Fiscal Year 1982 federal budget cuts have meant the following:

- 725,000 families lost their AFDC eligibility or had their grants reduced.
- In 20 states, loss of AFDC also meant loss of Medicaid benefits.
- A Congressional Budget Office study estimated that those households which lost AFDC eligibility also lost food stamps, housing assistance and Medicaid.⁴¹

Other federal programs such as CETA and WIN have been or will be phased out. Overall, in Fiscal Year 1982, 1.2 billion dollars were cut from AFDC programs and an additional 85 million was cut in Fiscal Year 1983.⁴²

With inconsistent child support payments and severe cutbacks in federal/state assistance, a mother's entry into the workforce may seem necessary. But what happens to women in the workforce?

Myth #5--Women Can Work and Make Up for Lost Support Payments

As the above statistics reveal, women do work. Many problems confront the single, working mother. Women, traditionally, have had a higher level of unemployment. Although unemployment is only slightly higher for white females than white males, female teenage minorities have the highest rate of unemployment. Once a woman finds work, salary statistics are dismal. Of the 2.38 million⁴³ women who work full-time, 53 percent earn less than \$5,000 a year. Of all income earners making over \$15,000, only 9 percent are women.⁴⁴ Twenty-one percent of female headed households with the head working full-time still fall below the poverty line.⁴⁵ And, one-third of all full-time working mothers with children under five are poor. So work is no sure way for a woman to break the poverty trap.⁴⁶

Another major problem with full-time working mothers is the lack of available child care. Assuming adequate child care can be found, the average day care cost in one California town is about one-half to three-fourths of what some women earn. In Colorado the cost for licensed day care is twice the amount of the average support award.⁴⁷

Even if women work, most salaries will not even cover subsistence level living for themselves, let alone their children.

Some of the reasons for the increasing rate of poverty among women have been cited: nonsupport, cutbacks in federal assistance, and low paying jobs. These problems combined with lack of consistent child support payments add to the rolls of poverty stricken women. Nevertheless, women are poor for different reasons than are men. The two fundamental reasons for poverty in women are:

1. Women are most often the custodial parent. This has a financial and emotional side: mothers must choose work to accommodate their children's lives. So, without support, many mothers are relegated to low paying jobs in an effort to accommodate their children's lives.⁴⁸
2. Women are grouped into occupations which pay poorly--80 percent of all women still work in pink collar jobs, i.e., clerical, waitressing, teaching. Men, on the other hand, can usually pull themselves out of poverty by working. Men are poor usually due to joblessness. When men work, they usually earn enough to support a family. Less than five percent of all families with a male wage earner are poor.⁴⁹

Single mothers are the fastest growing poverty group. The relationship of nonsupport and poverty is obvious.

The effective enforcement of child support payments is one way to ease the burden for poor mothers and their children.

The Child Support Enforcement Program

The child support enforcement program was established by Congress in 1975 by the addition of Part D to Title IV of the Social Security Act. The program was designed to assist custodial parents and dependent children to locate absent parents, verify paternity, and establish and enforce child support orders. Services are provided to all families in need of support, including those receiving Aid to Families with Dependent Children (AFDC) and those who apply for help in obtaining child support but do not receive AFDC.

The program is federally funded and state administered. Each state agency (commonly referred to as the IV-D agency) receives 70 percent matching funds from the federal government. All 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands and Guam operate child support program and have legislation which provides

for reciprocal enforcement of support obligations. At the time the AFDC program was first established the father's death was the major basis for eligibility. Currently, however, over 80 percent of the families receiving AFDC are eligible because a parent is absent from the home through divorce, separation or abandonment. Over 30 percent of the children receiving public assistance are born out of wedlock. If child support were being paid for all children receiving public assistance, the overall cost of the public assistance program (welfare) would be dramatically reduced. The regular payment of child support by non-custodial parents would enable families to discontinue their public assistance grants in some cases. States can reduce their welfare rolls and offset AFDC expenditures as support payments from absent parents are collected. HHS reports that for fiscal year 1980 support obligations were established in 373,691 cases, paternity was determined for 144,467 children and \$1.5 billion was collected in child support obligations. The national average for collections was \$3.30 for each dollar spent, making the program cost-effective in all but five states.

The effective collection of support payments enforces the financial responsibility of both parents. And, most people agree that responsible parents give a sense of security to a child.

Legislation is the cornerstone to a successful child support program. Each state can pass child support legislation tailored to the needs of the individual state and its citizens. Although the Office of Child Support Enforcement is a federally administered program, each state can pass legislation which conforms to the federal policy. This gives the state a unique political framework.

Examples of child support legislation include income assignment, paternity establishment, administrative processes, i.e., friend of the court and the adoption of uniform laws such as Uniform Reciprocal Enforcement of Support Act or the Uniform Parentage Act.

The NCSL Child Support Enforcement Project

The National Conference of State Legislatures Child Support Enforcement Project offers the following services and resources to state legislators and their staffs who desire to improve child support legislation:

- Technical assistance in policy research studies, testimony preparation, bill drafting, state workshops for developing and implementing child support legislation.
- An information clearinghouse containing abstracts, research reports, statistical information, significant court decisions, and guidance to resource people.
- Regular information releases, such as this, on special topics relating to child support enforcement.

FOR MORE INFORMATION

If you have any questions or desire further information, contact Deborah Dale, Child Support Enforcement Project, National Conference of State Legislatures, 1125-17th Street, Suite 1500, Denver, Colorado, 80202, (303) 292-6600.

Child Support Enforcement Amendments (P.L. 98-378)

Fact Sheet

With President Reagan's support, Congress has passed new legislation strengthening the nation's child support enforcement system. States will now be required to use strong, proven practices for collecting overdue child support payments—and new emphasis is put on interstate enforcement as well as services for all children needing support payments, whether or not their family is receiving public assistance.

Highlights of the new law:

All States Must Use Proven Enforcement Techniques

- **WAGE WITHHOLDING.** All states must provide for automatic withholding of child support payments overdue in an amount equal to one month's obligation. Advance notice must be provided to the absent parent. May include a fee to cover the employer's costs of withholding. May extend to other non-wage income.
- **EXPEDITED LEGAL PROCESSES.** States must use expedited judicial or administrative processes for obtaining and enforcing support orders. Expedited processes can also be used to establish paternity.
- **TAX REFUND OFFSETS.** States must provide for collection of overdue support from State income tax refunds.
- **LIENS.** States must have a process for imposing liens against real and personal property for overdue support, where appropriate.
- **SECURITY OR BONDS.** States must have procedures for requiring security, bond or other guarantee from parents with a pattern of overdue support.
- **REPORTS TO CREDIT BUREAUS.** At request of a credit bureau and after notifying absent parent, State must report overdue amounts over \$1,000. May report smaller amounts.

Improved Enforcement of Interstate Cases

- **REQUIRED TECHNIQUES.** States must have procedures for interstate enforcement of wage withholding. Other required techniques will also apply for enforcing interstate cases.
- **SHARED INCENTIVE PAYMENTS.** Interstate collections will be credited to both the initiating and responding states when calculating federal incentive payments.
- **SPECIAL PROJECTS.** Authorizes \$7 million in FY 1985, \$12 million in FY 1986, and \$15 million in FY 1987 for special demonstration projects testing innovative methods of interstate enforcement.

Equal Services for Welfare and Non-Welfare Families

- **INCENTIVE PAYMENTS.** Federal incentive payments to States, formerly applied only to AFDC cases, will now be based on collections for both welfare and non-welfare cases, as well as cost-effective program operation.
- **FEDERAL TAX OFFSET.** Collection of overdue support from Federal income tax refunds, previously available only for AFDC cases, can now be used for non-AFDC cases as well.
- **PUBLIC AWARENESS.** States must regularly publicize the availability of child support enforcement services.
- **REQUIRED TECHNIQUES.** Wage withholding and other required techniques are mandated for non-welfare as well as welfare cases.

continued

Improved Incentives for State Programs

- **PERFORMANCE-BASED PAYMENTS.** According to a General Accounting Office study, States have had "little incentive" under present Federal funding to improve their child support programs. At present, Federal incentive payments of 12 percent are made for AFDC collections only, without regard to cost-effectiveness of the program. Under the amendments, incentive payments will be based on formulas counting collections for non-AFDC as well as AFDC cases, plus cost-effectiveness of each program.
- **FEDERAL MATCHING FOR ADMINISTRATION.** Federal matching funds for administrative costs, now 70 percent, will be reduced to 68 percent in 1988 and 1989, and 66 percent in 1990 and thereafter. While still a generous Federal share, this more equal sharing by State and Federal Governments will encourage States to improve programs and emphasize performance incentives.
- **AUDITS AND PENALTIES.** Improved performance-based audits of State programs are required. Current 5 percent penalty for States with non-complying programs is replaced with graduated penalties. No penalty assessed if corrections are made within a standard time period.
- **STATE COMMISSIONS.** Governors are to appoint commissions to oversee child support enforcement systems, with broad representation of groups most affected.

Other Provisions

- To assist judges and other officials, States must develop suggested guidelines on appropriate support amounts for children.
- Requires States to charge an application fee up to \$25 for non-AFDC cases. The fee may be charged to the applicant, absorbed from State funds if applicant is unable to pay, or charged to the absent parent. Fees, which help offset administrative costs, are currently optional.
- States will have the option of imposing a late payment fee of 3 to 6 percent on all delinquent obligors.
- Social Security numbers of absent parents will be made available to State child support agencies on request.
- States must include medical support as part of child support orders when private health insurance is available to the non-custodial parent at reasonable cost.

Cost Impact

Total collections under the Federal-State child support enforcement program were a record \$2 billion in FY 1983. In FY 1986, the initial year of implementation for most of the legislative provisions, collections should increase to \$3 billion. In addition, from FY 1986 to 1989, some \$300 million in welfare costs will be avoided as child support is collected for needy families who would otherwise become eligible for AFDC. ■

A BRIEF INTRODUCTION TO CHILD SUPPORT ENFORCEMENT

The Child Support Enforcement Program was established in response to the changes taking place in the AFDC program. AFDC was established in the 1930's to provide for children who did not have the benefit of support from both parents. Assistance is available to families in which a responsible parent is dead, absent, disabled, or in some cases, unemployed.

When the AFDC program was first established, death of the father was the major basis for eligibility. Currently, over 80 percent of the families receiving AFDC are eligible because a parent is absent from the home, while over 30 percent of the children are being born of unmarried parents.

Federal law requires that each state establish a child support enforcement program. The responsible state government unit is commonly referred to as the IV-D agency. Each program receives 70 percent of its funding from the federal government. The state IV-D agency is responsible for locating absent parents, establishing paternity, establishing child support obligations, and collecting and monitoring child support payments.

The Montana IV-D and enforcement agency is called the Child Support Enforcement Program. Located within the Legal and Enforcement Division of the Department of Revenue, the Child Support Enforcement Program collects support on welfare and non-welfare cases in Montana, and throughout the United States.

THE PROBLEM OF CHILD SUPPORT

Each year over one million American marriages end in divorce, disrupting the lives of more than three million men, women and children. More than 40 percent of American marriages contracted in the 1980's are expected to end in divorce, and by the 1990's only 56 percent of the children in the United States will spend their entire childhood with both natural parents.

No fault divorce laws have shifted the focus of the legal process from moral questions of fault and responsibility to economic issues of ability to pay and financial need. Today fewer husbands and wives fight about who-did-what-to-whom; they are more likely to argue about the value of marital property, her earning capacity and his ability to pay.

When child support is not paid and a family falls below the poverty levels, taxpayers become responsible for child support. Without child support, the poverty level for mother only families rises from 12 percent to 18 percent. We believe that parents should pay for the support of their children to the extent possible.

In most divorce cases both spouses are represented by legal counsel. Unfortunately the children are almost never represented. Yet in most all cases, the children equally with the parents, suffer both economically and financially.

The Child Support Enforcement Amendments of 1984 which were passed by Congress in the fall are directed toward insuring that all parents with an obligation to support live up to that obligation. The Act provides the enforcement tools necessary to make the payment of child support an automatic function.

Since 1980, the Montana program has made great gains in its effort to collect child support. The following table illustrates the progress made, how that progress relates to the national average, and how such progress translates into a financial return for the State of Montana.

FIVE YEAR CHILD SUPPORT ANALYSIS

	FY 1980	FY 1981	FY 1982	FY 1983	FY 1984
<u>COLLECTIONS</u>					
Total Distributions	1,500,037	1,579,820	1,652,965	2,351,067	2,973,797
Non-AFDC	685,118	658,744	524,102	615,516	697,581
AFDC to Recipient				7,513	5,367
AFDC Net Retained	814,919	921,076	1,128,863	1,728,038	2,270,849
Federal Share	516,075	592,069	735,072	1,129,085	1,467,259
State Share	223,205	255,956	306,208	465,276	623,480
County Share	75,639	73,051	87,583	133,677	180,110
<u>EXPENSES</u>					
Total Program Costs	1,037,550	1,150,059	1,067,986	1,152,138	1,326,284
Federal Share	778,162	862,544	800,990	817,811	928,400
State Share	220,599	240,102	229,159	291,434	358,896
County Share	38,789	47,413	37,837	42,893	38,988
Montana Cost Effective Ratio					
State Level	1.01	1.07	1.34	1.60	1.74
County Level	1.95	1.54	2.32	3.12	4.62
Incentives to Montana Paid from Federal Share	13,627	113,908	142,526	229,680	251,357
Cost Effective Ratio for General Fund	1.07	1.54	1.96	2.38	2.44

Beginning October 1, 1985 the incentive payment rate will change from 12% on AFDC collections only to a maximum of 10% on both AFDC and Non-AFDC.

For further information: Contact Bill Harrington or Dennis Shober, Child Support Enforcement Program, P. O. Box 5955, Helena, MT 59604. Phone (406) 444-4614.

Mr. Chairman and Members of the Committee:

For the record, I am Jan Brown, House District 46.

House Bill 439 permits consumer reporting agencies to obtain personal child support information from child support agencies; provides that the consumer reporting agency notify any person about whom child support debt information has been requested; and provides an opportunity to contest the debt amount of record through the adoption of rules by the agency. I have a statement of intent for this bill.

Information presently contained in the files of the child support program, including debt amounts, is confidential and can only be used as necessary in legal actions or similar proceedings. This information is not available to credit bureaus or other credit information agencies even though it might be highly pertinent.

The new federal legislation permits disclosure of unpaid child support debts to credit agencies. Prior to disclosure, the bill requires notice and opportunity to contest the accuracy of the information to be released.

I have other proponents and resource people to answer questions.

49th Legislature

LC 444

STATEMENT OF INTENT

_____ BILL NO. _____

A statement of intent is required for this bill because it grants rulemaking authority to the department of revenue.

The purpose of this bill, and Public Law 93-378 on which it is based, is to make available to consumer credit reporting agencies information concerning an individual's delinquent support obligation. The intent of such disclosure is twofold:

(1) to preclude a parent from taking on additional financial burdens inconsistent with the child support obligation; and

(2) to protect other general creditors of the parent by making them aware that a child support debt exists which may subject the assets and wages of the parent to garnishment, seizure, and sale, and the imposition of liens on the parent's real and personal property. However, before disclosure of such sensitive information and because of the potential harm if inaccurate information is disclosed, the department of revenue shall adopt rules and procedures to preserve the privacy of such information until the parent has had an opportunity to examine the information and to contest its accuracy.

It is intended that the department of revenue should respond within a reasonable time to any request for information. Therefore, to expedite the release of such information, any dispute with the parent over its accuracy should be resolved,

whenever possible, under the contested case provisions of the Montana Administrative Procedure Act. The department of revenue is authorized to adopt and enforce such rules as may be necessary to implement such procedures.

The department of revenue is permitted to prescribe a reasonable fee to be paid by the consumer credit reporting agencies to compensate the child support agency for its administrative costs incurred in providing the requested information under this bill. It is intended that the fees should not exceed the actual costs of providing this information, which may be a uniform fee to be applied in all cases or a fee schedule based on the volume of the requests.

Mr. Chairman and Members of the Committee:

For the record, I am Jan Brown, House District 46.

House Bill 443 requires, in Child Support cases being enforced by the Dept. of Revenue, the withholding of the obligor's income whenever an arrearage occurs that is equal to or in excess of the amount of support payable for 1 month.

The new federal legislation requires all states to enact laws requiring procedures for wage withholding as a means of enforcing delinquent child support obligations. This bill pertains only to cases which are being enforced by the Dept. of Revenue. Under this bill, wage withholding will be triggered automatically whenever an arrearage accrues that is equal to the amount of support payable for one month. Withholding is to begin without amendment to the support order or further action by the court and is intended to apply to both existing and new child support obligations. Once put into effect, wage withholding will continue for so long as the Dept. of Revenue is enforcing the order or the support obligation terminates and all arrearages are paid in full.

To permit the automatic triggering of withholding procedures, it is necessary that the Dept. of Revenue monitor all support payments. This bill provides the authority for the Dept. to direct all payments to be made directly to the Dept., notwithstanding any prior order or agreement.

The bill gives the Dept. of Revenue rule-making authority to implement necessary procedures and forms, and I have a Statement of Intent.

I have further proponents and staff persons present to further explain this bill and to answer questions.

STATEMENT OF INTENT

_____ BILL NO. _____

A statement of intent is required for this bill because it gives the department of revenue rulemaking authority.

The intent of this bill and federal Public Law 93-378, the Child Support Enforcement Amendments of 1984, on which it is based is to ensure that the support of children is the highest priority in the allocation of a responsible parent's income through the timely and automatic initiation of income withholding procedures whenever a delinquency occurs equal to at least 1 months' support payment. This bill requires the department to monitor and track support payments as they become due for the purpose of detecting delinquencies and further, to promptly respond to such delinquency with income withholding procedures. To expedite the process of income withholding, any hearings are to be held under the contested case procedures of the Montana Administrative Procedure Act. Further, income withholding procedures are to be made available for interstate applications.

More specifically, it is the intent of the bill to grant to the department of revenue, the following:

(1) the authority to establish rules and procedures related to the administrative hearing process, including but not limited to procedures for requesting a hearing, for discovery, and for teleconferencing;

(2) the authority to adopt guidelines for the exercise of discretion in reducing the amount to be withheld in satisfaction of arrearages;

(3) the authority to establish procedures for the monitoring, tracking, and dispensing of support payments and payments received from income withholdings; and

(4) the authority to establish procedures for the implementation of interstate withholding.

House Bill 440
House Judiciary
1/29/85

Mr. Chairman and Members of the Committee:

For the record, I am Jan Brown, House District 46.

House Bill 440 permits the Dept. of Revenue to enforce maintenance awards to custodial parents of children whose support is being enforced by the Department. The federal legislation requires the state child support agencies to enforce and collect spousal support in situations where the obligation has already been established and the child and the spouse are residing together.

This bill is intended to permit the more expeditious use of the administrative process.

I have resource people here who can explain to you what this means.

House Bill 441
House Judiciary
1/29/85

Mr. Chairman and Members of the Committee:

For the record, I am Jan Brown, House District 46.

House Bill 441 permits docketing and enforcement of administrative child support orders in the district court and limits modification of support orders by the district court.

The Child Support Enforcement Program has been authorized by prior legislation to determine and set child support orders by administrative process. The orders have legal effect only as long as the state has an interest in welfare reimbursement.

However, the administrative order often brings in enough support funds to disqualify the welfare recipient, and once welfare eligibility ceases, the order for support terminates. The former recipient is without an enforceable order and ends up reapplying for welfare. This frustrates a perceived mission of the Child Support Program, which is to reduce welfare roles by establishing and enforcing child support orders. House Bill 441 would correct the problem by permitting an administrative order for support to be docketed as a District Court judgment, where it can be enforced without regard to welfare eligibility.

I have other proponents and staff persons available to answer questions.

House Bill 441

Proposed amendments:

1. Page 1, line 8 following "district court" insert:

"TO ALLOW THE DEPARTMENT TO ISSUE A WARRANT FOR DISTRAINT BASED UPON THE DOCKETED ADMINISTRATIVE CHILD SUPPORT ORDER PURSUANT TO SECTION 40-5-241, MCA, AND TO AMEND SECTION 40-5-241, MCA, TO DELETE THE REQUIREMENT FOR A SECOND NOTICE AND HEARING PRIOR TO EXECUTION ON A FILED WARRANT FOR DISTRAINT."

2. Page 2, line 4, insert:

"NEW SUBSECTION. (3) THE DEPARTMENT MAY ISSUE A WARRANT FOR DISTRAINT BASED UPON A PROPERLY FILED AND DOCKETED ORDER PURSUANT TO SECTION 40-5-241, MCA."

3. Page 2, line 7, insert:

"NEW SECTION. (3. SECTION 40-5-241, MCA, IS AMENDED TO READ:

"40-5-241. WARRANT FOR DISTRAINT. THIRTY-ONE DAYS AFTER RECEIPT OR REFUSAL OF NOTICE OF DEBT UNDER PROVISIONS OF 40-5-222 or 31 DAYS AFTER SERVICE OF NOTICE OF DEBT OR AS OTHERWISE APPROPRIATE UNDER THE PROVISIONS OF 40-5-223 and 40-5-224, THE DEPARTMENT MAY ISSUE A WARRANT FOR DISTRAINT BASED ON THE AMOUNT OF THE SUPPORT DEBT. THE WARRANT IS SUBJECT TO THE PROVISIONS OF 15-1-701, 15-1-704, ~~15-1-705~~, 15-1-708, and 15-1-709 WITH REFERENCES TO "TAX" TAKEN TO MEAN "SUPPORT DEBT" AND REFERENCES TO "TAXPAYER" TAKEN TO MEAN "PERSON OWING THE SUPPORT DEBT", AS WELL AS THE PROVISIONS OF THIS PART. NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (3) OF 15-1-705, AN APPEAL FROM A HEARING MAY BE MADE DIRECTLY TO DISTRICT COURT, AS PROVIDED IN 40-5-253, AND IS NOT APPEALABLE TO THE STATE TAX APPEAL BOARD."

4. Page 2, line 7 following "Section" insert:

"4."

Mr. Chairman and Members of the Committee:

For the record, I am Jan Brown, House District 46.

House Bill 442 provides that a paternity action may be brought until the child becomes 21 years of age.

The Montana Supreme Court held in the 1981 case of State vs. Wilson that the statute of limitations for the establishment of paternity was unconstitutional. However, the Court went on to reason that the State's interest being primarily economic, the statute of limitations as against the State was constitutional. Consequently, if the child is 3 years or older, the State is unable to establish paternity.

The result is that in those cases the child may continue on welfare until age 18 and the State is without any present means to establish paternity, get support ordered, and thereby reimburse itself for welfare paid out. To correct this problem, Congress passed the new federal legislation which requires the state to do away with the statute of limitations on paternity establishment.

I have other proponents and staff persons to answer questions.

STANDING COMMITTEE REPORT

January 29

19 85

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 439

THREE FIRST reading copy (WHITE)
color

**CONSUMER CREDIT REPORTING AGENCIES ACCESS TO CHILD SUPPORT DEBT
INFORMATION**

Respectfully report as follows: That HOUSE Bill No. 439

DO PASS ..

STATEMENT OF INTENT ATTACHED

STATEMENT OF INTENT

JANUARY 28 1985

STATEMENT OF INTENT FOR HR 439

A statement of intent is required for this bill because it grants rulemaking authority to the department of revenue.

The purpose of this bill, and Public Law 93-378 on which it is based, is to make available to consumer credit reporting agencies information concerning an individual's delinquent support obligation. The intent of such disclosure is twofold:

(1) to preclude a parent from taking on additional financial burdens inconsistent with the child support obligation; and

(2) to protect other general creditors of the parent by making them aware that a child support debt exists which may subject the assets and wages of the parent to garnishment, seizure, and sale, and the imposition of liens on the parent's real and personal property. However, before disclosure of such sensitive information and because of the potential harm if inaccurate information is disclosed, the department of revenue shall adopt rules and procedures to preserve the privacy of such information until the parent has had an opportunity to examine the information and to contest its accuracy.

It is intended that the department of revenue should respond within a reasonable time to any request for information. Therefore, to expedite the release of such information, any dispute with the parent over its accuracy should be resolved, whenever possible, under the contested case provisions of the Montana Administrative Procedure Act. The department of revenue is authorized to adopt and enforce such rules as may be necessary to implement such procedures.

The department of revenue is permitted to prescribe a reasonable fee to be paid by the consumer credit reporting agencies to compensate the child support agency for its administrative costs incurred in providing the requested information under this bill. It is intended that the fees should not exceed the actual costs of providing this information, which may be a uniform fee to be applied in all cases or a fee schedule based on the value of the requests.

STANDING COMMITTEE REPORT

January 29 19 35

page 1 of 2

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 441

FIRST reading copy (WHITE)
color

ENFORCEMENT OF ADMINISTRATIVE CHILD SUPPORT ORDERS THROUGH DISTRICT COURT

Respectfully report as follows: That HOUSE Bill No. 441

be amended as follows:

1. Title, line 3.

Following: "DISTRICT COURT"

Insert: " TO ALLOW THE DEPARTMENT TO ISSUE A WARRANT FOR DISTRAINT BASED UPON THE DOCKETED ADMINISTRATIVE CHILD SUPPORT ORDER; TO DELETE THE REQUIREMENT FOR A SECOND NOTICE AND HEARING PRIOR TO EXECUTION ON A FILED WARRANT FOR DISTRAINT; AMENDING SECTION 40-5-241, MCA."

2. Page 2, following line 3.

Insert: "(2) The department may issue a warrant for distraint based upon a properly filed and docketed order pursuant to section 40-5-241, MCA."

Section 2. Section 40-5-241, MCA, is amended to read:
"40-5-241. Warrant for distraint. Thirty-one days after receipt or refusal of notice of debt under provisions of 40-5-222 or 31 days after service of notice of debt or as otherwise appropriate under the provisions of 40-5-223

~~DO PASS:~~

(continued)

and 40-5-224, the department may issue a warrant for distraint based on the amount of the support debt. The warrant is subject to the provisions of 15-1-701, 15-1-704, 15-1-705, 15-1-708, and 15-1-709, with references to "tax" taken to mean "support debt" and references to "taxpayer" taken to mean "person owing the support debt", as well as the provisions of this part. Notwithstanding the provisions of subsection (3) of 15-1-705, an appeal from a hearing may be made directly to district court, as provided in 40-5-253, and is not appealable to the state tax appeal board."

Renumber: subsequent sections.

AND AS AMENDED
DO PASS

STANDING COMMITTEE REPORT

January 20

19 95

SPEAKER:
MR.

We, your committee on **JUDICIARY**

having had under consideration **HOUSE** Bill No. **439**

FIRST reading copy (**WHITE**)
color

OFFSET CHILD SUPPORT DEBTS AGAINST STATE INCOME TAX REFUNDS

Respectfully report as follows: That **HOUSE** Bill No. **439**

DO PASS

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1/29/85 BILL NO. HB 441 TIME 10:10

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene	✓	
John Cobb		✓
Paula Darko	✓	
Ralph Eudaily	✓	
Budd Gould		✓
Edward Grady	✓	
Joe Hammond	✓	
Kerry Keyser		✓
Kurt Krueger		✓
John Mercer	✓	
Joan Miles	✓	
John Montayne		✓
Jesse O'Hara	✓	
Bing Poff	✓	
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)		✓
Tom Hannah (Chairman)		✓

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. Mercer moved to adopt the amendment proposed by
the department and marked as Exhibit _____ . Motion was seconded
by Rep. O'Hara and carried 10-8.

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1/29/85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek	✓		